

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: Feb 2, 2007Signature: 
(David A. Gass)Docket No.: 19036/40796
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Yuka Matsui

Application No.: 10/561,629

Confirmation No.: 8420

Filed: June 21, 2004 as PCT/JP2004/008710
(national stage entry on December 20, 2005)

Art Unit: Not Yet Assigned

For: OPHTHALMIC COMPOSITION

Examiner: Not Yet Assigned

DECLARATION OF FACTS FOR PETITION TO ACCEPT FILING UNDER 37 CFR
§1.47(b)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, **Tadato Fujiwara**, hereby declare as follows:

1. I am a registered attorney at law in Japan and submit this Declaration for the purpose of setting out that the refusal of Yuka Matsui, sole inventor of the subject matter in the above-identified patent application, to clarify her current address would be justified under Act on the Protection of Personal Information (The Personal Information Protection Law of Japan).

2. Pertinent Facts

(1) Yuka Matsui, (Ms.) ("MATSUI"), the sole inventor of the subject invention ("INVENTION") had been an employee of Kobayashi Pharmaceutical Co., Ltd. ("KOBAYASHI") until October 31, 2003.

(2) Matsui completed the subject invention in 2003 as KOBAYASHI's employee. Following the completion of INVENTION, MATSUI executed an assignment deed, dated August 20, 2003, to assign to KOBAYASHI the right to obtain patents, both Japanese and overseas, covering INVENTION, and submitted said deed to KOBAYASHI. The deed of assignment bears MATSUI's address as of August 20, 2003, which is not her address as of the date of this writing.

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(3) On October 31, 2003 MATSUI left KOBAYASHI and then joined another company in competition with KOBAYASHI.

(4) On June 20, 2003 KOBAYASHI filed a Japanese patent application covering INVENTION, and also filed a PCT application on June 21, 2004, claiming priority based on said Japanese patent application.

(5) In 2006, KOBAYASHI decided to enter said PCT application into the U.S. national phase and requested Matsui who had left KOBAYASHI that she put her signature to the inventor's oath. However, MATSUI refused to do so. Whereupon KOBAYASHI sought consent of MATSUI for entering her address, then current, in a petition to be submitted to the USPTO by KOBAYASHI to enable the USPTO to contact MATSUI. Nevertheless, MATSUI did not give her consent to the entry of her address, then current, into said petition, refusing the request.

(6) KOBAYASHI submitted the afore-noted assignment together with the English translation thereof to the USPTO on December 8, 2006.

3. My Position

(1) Act on the Protection of Personal Information prohibits, in principle, supplying any third party with the "personal data" on any person by "an entity handling personal information" without prior consent of said person.

(2) The "personal data" hereinabove refers to "personal information" which constitutes "personal information database, etc.". The "personal information" refers to information on any individual alive, whereby a specific individual can be identified on the basis of descriptions included in said information; and a system composing collected "personal information," from which such collected information can be retrieved by use of a computer, is called "personal information database, etc." by said law. In view of this, the present address and mail address of MATSUI are information on living individuals, and entries therein are capable of allowing the personal identification of MATSUI. Therefore, said addresses are "personal information". Further, KOBAYASHI has systematically constructed not only past and present "personal information" on its employees but also "personal information" on customers as aggregate such that they can be retrieved using a computer. Therefore, it can be said that KOBAYASHI possess the "personal information database, etc.". Viewed in this light, said present address and mail address of MATSUI constitute "personal information" comprising the "personal information database, etc.," namely "personal data".

(3) Meanwhile, the "entity handling personal information" is a party using the "personal information database, etc." for business purposes. KOBAYASHI uses said "personal information database" for its business; therefore, it is classified as "an entity handling personal information". In this regard, if the total number of specified individuals, who can be identified on the basis of personal information comprising the "personal information database, etc.," does not exceed 5,000 on any day in the past six months, such entity does not fall into the "entity handling personal information". As for KOBAYASHI, however, it is not covered by this exclusion provision of the law.

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(4) Accordingly, inasmuch as KOBAYASHI, an "entity handling personal information", provides the USPTO, a third party, with a petition in which MATSUI's present address and mail address, that is, Matsui's "personal data", are entered without the prior consent of MATSUI, the subject person, such act is considered to constitute an act prohibited under the prohibition clause provided for in the Act on the Protection of Personal Information.

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: January 19th, 2007

Signed: Tadato FUJIWARA

Name: **Tadato Fujiwara**

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Yuka Matsui

Application No./Patent No.: 10/561,629 Filed/Issue Date: December 20, 2005

Entitled: OPHTHALMIC COMPOSITION

KOBAYASHI PHARMACEUTICAL CO. LTD., a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
(The extent (by percentage) of its ownership interest is _____ %)

In the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 018674, Frame 0470, or a true copy of the original assignment is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.
(NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08)

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Yutaka Kobayashi
Signature

February 1, 2007

Date

Yutaka KOBAYASHI
Printed or Typed Name

81-72-640-0122
Telephone Number

President & COO
Title

81-72-641-7840
Facsimile Number